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SECTION 2000 - ENVIRONMENTAL JUSTICE

SECTION 2010.00 - INTRODUCTION

On February 11, 1994, President Clinton signed Executive Order (EO) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requiring Federal agencies to identify and address disproportionately high and adverse human health and environmental effects, including the interrelated social and economic effects of their programs, policies and activities on minority and low-income populations in the United States. It builds on the principles of Title IV of the Civil Rights Act of 1964 which provides that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” U.S. department of Transportation (U.S.DOT) Order 5610.2 and FHWA Order 6640.23 provide implementing guidance on EO 12898.

Appropriate implementation of Title VI, EO 12898, and the U.S.DOT and FHWA orders will be accomplished through implementation of the FHWA NEPA process. As described in [Section 200](#), this process includes identifying social and economic effects that are interrelated with natural or physical environmental effects, considering alternatives, coordinating with agencies, involving the public, and utilizing a systematic interdisciplinary approach. Identifying and addressing the issues will prevent discrimination and avoid, minimize or mitigate disproportionately high and adverse impacts. This section summarizes environmental justice (EJ) requirements for ITD projects. See related information in [Section 1900](#).

2010.01 Summary of Requirements. The EJ analysis requires in-depth studies of communities affected by a transportation project and effective community outreach, in order to correctly identify potential impacts. This process is intended to ensure that the project avoids, minimizes or mitigates disproportionately high and adverse effects on minority and low-income populations. FHWA’s *Community Impact Assessment*, and other documents referenced in this section provide guidance for completing this type of study.

2010.02 Abbreviations and Acronyms.

EJ Environmental Justice

2010.03 Glossary.

Adverse Impacts –The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of manmade or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community’s economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion; isolation, exclusion or separation of minority or low income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of U.S. DOT programs, policies, or activities.

Disproportionately High Impact – The adverse impact is disproportionately high if it is predominately borne by a minority and/or low income population, or will be suffered by the minority and/or low income community and is appreciably more severe or greater in magnitude than the adverse impact that will be suffered by the remainder of the community.

Environmental Enhancement – May be added to a transportation project to improve community acceptance (see 1990 FHWA Environmental Policy Statement). Environmental enhancements are incorporated into a project as part of routine decision-making to make it more compatible with and sensitive to community needs.

Environmental Justice – Refers to the process of identifying and addressing disproportionately high and adverse human health and environmental effects on minority and low income populations. Incorporating environmental justice into the project development process entails documenting the demographics of affected minority and low income populations, recognizing any adverse impacts associated with the project alternatives, and identifying avoidance, minimization or mitigation measures for disproportionately high and adverse impacts.

Low Income – A household income at or below the Department of Health and Human Services poverty guidelines for that size of household.

Minority – A person who is:

- Black (having origins in any of the black racial groups of Africa)
- Hispanic (of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race)
- Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands) or
- American Indian or Alaskan Native (having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition).

Readily Identifiable – Quickly and easily indicated or established.

SECTION 2020.00 – APPLICABLE STATUTES AND REGULATIONS

Statutes and regulations cited in this section can be accessed online from the FHWA/FTA environmental justice web site: <http://www.fhwa.dot.gov/> Click on FHWA Programs, then Environment, then Environmental Justice. Or: <http://www.fhwa.dot.gov/environment/ej2.htm>

2020.01 National Environmental Policy Act. The National Environmental Policy Act (NEPA), 42 USC Section 4321-4347, requires that all actions sponsored, funded, permitted, or approved by federal agencies undergo planning to ensure that considerations such as environmental justice are given due weight in project decision-making. Federal implementing regulations are at 23 CFR 771 (FHWA) and 40 CFR 1500-1508 (CEQ). For details on NEPA procedures, see [Section 200](#).

2020.02 Civil Rights Acts. The FHWA views environmental justice as an extension of Title VI of the Civil Rights Act of 1964 and the Civil Rights Restoration Act of 1984. These nondiscrimination laws require that “federal-aid recipients, sub-recipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, whether these programs and activities are federally funded or not. The factors prohibited from serving as a basis for action or inaction that discriminate include race, color, national origin, sex, age, and physical handicap/disability.

“The efforts to prevent discrimination must address, but not be limited to a program’s impacts, access, benefits, participation, treatment, services, contracting opportunities, and training opportunities, investigations of complaints, allocations of funds, prioritization of projects and the functions of right-of-way, research, planning and design.”

2020.03 Title 23- United States Code for highways (23USC). 23 USC 109(h), provides for the establishment of guidelines “to assure that possible adverse economic, social and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project”..

2020.04 Executive Order 12898 – Environmental Justice. The Executive Order on *Federal Actions to Address Environmental Justice in Minority Populations and Low-income Populations* (February 11, 1994) was intended “to focus Federal attention on the environmental and human health conditions in minority communities and low-income communities with the goal of achieving environmental justice, to promote nondiscrimination in Federal programs substantially affecting human health and the environment, and to provide minority and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment.” It requires that each Federal agency shall “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionate and adverse human health or environmental effects of its program, policies, and activities on minority population and low-income populations...”

The order directs federal agencies to:

- Analyze the environmental effects, including human health, economic, and social effects, of federal actions, including the effects on minority and low-income communities, when required by NEPA.
- Provide opportunities for community input during the NEPA process, including identifying potential effects and mitigation measures.
- Ensure that the public, including minority and low-income communities, have adequate access to public information relating to human health or environmental planning, regulations, and enforcement. Since 1994, federal agencies have added the following goal:
- Protect minority and low-income populations who principally rely on fish and/or wildlife for subsistence from human health risk associated with the consumption of pollutant-bearing fish or wildlife.

The Executive Order is available online at FHWA’s web site: - <http://www.fhwa.dot.gov/> Click on FHWA Programs, then Environment, then Environmental Justice (under Transportation), then The Facts, then Legislation and Guidelines or:

<http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm#legislation>

SECTION 2030.00 - POLICY GUIDANCE

2030.01 FHWA. FHWA's longstanding policy has been to actively ensure nondiscrimination under Title VI of the 1964 Civil Rights Act in all activities and programs undertaken by Federal-aid recipients, sub-recipients, and contractors in federally funded activities. Federal guidance on environmental justice can be found in numerous documents, including US Department of Transportation *Order 5610.2 on Environmental Justice*, and FHWA *Order 6640.23 on FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*.

These and other documents are available online at FHWA's web site: <http://www.fhwa.dot.gov/> Click on FHWA Programs, Environment, then Environmental Justice; also click on Environmental Guidebook, then Title VI and Environmental

Local comprehensive plans may contain elements addressing social goals and may include an element on environmental justice. Review these plans during ITD's environmental review process.

2030.02 ITD. ITDs HQ Environmental Office and the Equal Employment Opportunity Office have developed an interdisciplinary approach to the implementation of Title VI and Executive Order 12898 on Environmental Justice. Both offices exchange technical knowledge on environmental and civil rights legislation and implementation to assure compliance within ITDs operation.

Technical consultation associated with Title VI or EO 12898 complaints should be addressed through the Equal Employment Opportunity Office.

SECTION 2040.00 - MOUS, MOAS, AND INTERAGENCY AGREEMENTS

None identified.

SECTION 2050.00 - TECHNICAL GUIDANCE

2050.01. ITD Environmental Justice Report Format See *Exhibit 2000-1*. The format is very comprehensive and gives a list of all the issues that may arise when a project alternative is being analyzed. Not all of the listed issues need be addressed for each project. Consider only those issues that may reasonably be impacted by the project.

2050.02 FHWA/FTA Toolkit. The FHWA and Federal Transit Administration (FTA) have been working together to develop a toolkit of educational and training materials that will help transportation practitioners address environmental justice issues. These materials are designed for state DOTs, MPOs, local agencies, consultants, and interested community groups. An Environmental Justice brochure is available through ITD's Environmental Affairs Office. A web site containing facts, questions and answers, case studies, effective practices, and other environmental justice links and tools can be accessed from FHWA's home page: <http://www.fhwa.dot.gov/> Click on FHWA Programs, then Environment, then E J (under Transportation) or: <http://www.fhwa.dot.gov/environment/ej2.htm>

2050.03 FHWA Community Impact Assessment. FHWA's *Community Impact Assessment* (FHWA Publication No. FHWA-PD-96-036) covers topics related to environmental justice and should be reviewed for substantial projects.

A community assessment should at least include the following guidelines on health risks and cumulative impacts:

Health Risk – Review, identify and analyze whether health risks are significant, unacceptable, or above generally accepted norms – Do these health effects occur in a minority or low-income population by cumulative or multiple adverse exposures to such environmental hazards?

Environmental Exposure – Review, identify and analyze whether the risk of exposure by a minority population or low-income population to an environmental hazard is significant and appreciably exceeds or is likely to appreciably exceed the risk or rate to the general population or other appropriate comparison group.

Fish and Wildlife Impacts and Subsistence Living – Identify and analyze whether indigenous communities in the area of the project subsist (rely) on fish and wildlife – It is important to also review the effect on local tribes' fishing activities or fish processing operations.

Social, Cultural and Economic Impacts – Identify and analyze whether the project has the possibility of significantly impacting or unfairly burdening any unique social, cultural, or economic aspect of the community.

Customs, Religious Practices, Historical Properties and Cultural Differences Impacts. – Identify and analyze whether there is any significant impact to customs, religious practices/ churches, tribal centers, recognized cultural places, or of historical properties, whether or not recognized by the federal government, state government, or tribe.

Segmentation Issues – Identify and analyze whether there is a possibility of creating physical barriers to essential social services, employment, or parks and recreation facilities or segmentation of any neighborhood.

Disproportionately High and Adverse Effects – Identify and analyze whether there are significant impacts that result directly or indirectly from a project that excessively burdens a low income community and/or a minority community – Consider specifically relocation vs. good quality housing available in the area; loss of a strong social and ethnic identity; and increased impacts due to air pollution, lower housing values, and reduced access.

The *Community Impact Assessment* may in the future be available online at the FHWA's web site:

<http://www.fhwa.dot.gov/> or: Click on FHWA Programs, then Environment, then Environmental Justice (under Transportation), then Resources.

<http://www.fhwa.dot.gov/environment/ejustice/lib/index.htm>

2050.04 FHWA Technical Advisory. FHWA Technical Advisory T6640.8A, (*Exhibit 300-4*) *Guidance for Preparing and Processing Environmental and Section 4(f) Documents* (October 30, 1987), gives guidance on preparing sections on social, economic, and relocation impacts, and joint development. This guidance, is available online at FHWA's home page:

<http://www.fhwa.dot.gov/legsregs/directives/techadvs/t664008a.htm>

2050.05 FHWA Order. *FHWA Order 6640.23, FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, contains the guidance, policy and definitions that should be included in an EJ report. Find the guidance at [Exhibit 2000-2](#).

2050.06 CEQ Guidance . Another useful reference is a document published by the Council on Environmental Quality (CEQ), *Environmental Justice – Guidance under the National Environmental Policy Act*.
<http://ceq.eh.doe.gov/nepa/regs/ej/justice.pdf>

2050.07 Report Guidance. Census data is the base for most technical decisions on EJ impacts since it is the one source where each residence will have contributed data. Determining the correct data set to use is more a result of experience than it is a set format that will cover all projects. There are some cautions that need to be considered. Census data that is more than four years old is suspect. There are commercial sources of recalculated census data that can provide population, housing and economic data on a yearly basis between the ten year span of Federal Census data.

Check here for an approved list of vendors: <http://www.census.gov/cgi-bin/geo/vendors> or <http://www.idoc.state.id.us/Census2000/index.html> The Idaho Department of Commerce will have the current census information for the State of Idaho as it is issued.

Always include a windshield survey in the summary of determination for low-income or minority populations. A windshield survey is simply a drive through the neighborhood to observe and record the general perception of the neighborhood. Is it readily discernable that this neighborhood contains minority or low-income households? What are the indicators? Is the neighborhood predominately of one ethnic group or income level? The populations must be “readily definable” and being visible to the casual observer is part of that identification. The caution is that the windshield survey cannot be used as the only or even the primary method of determining populations but it should be a consistent part of EJ surveys.

Determine what percent of the households contain minority or low-income families as compared to the next largest census boundary that can be determined. If possible, also determine the percent of actual population as compared to the next largest census boundary. The intent is to determine if the residences being impacted or displaced, for any given area, are in a greater concentration than in the rest of the census boundary/city/county or whatever area that has been chosen for comparison.

For instance, suppose the alternative being analyzed is going to displace 10 houses (households). Determine the number of households in the census tract/block within the scope of the project. Determine the percent of minority or low-income households in that census designation. Suppose there are 2000 households and the ratio of minority households is 8 percent. The entire minority population is 160 households. Suppose the number of households under the poverty level in the study is 11 per-cent or 220 households.

The project will displace three minority, four low income and three non low-income or non-minority households. Three minority households/housing units (caution: households and housing units are not always the same number due to some housing units containing multiple households and some housing units containing no households, i.e. vacant units) are 1.87 % of the total minority population. Four low-income households/housing units are 1.82% of the low-income

population. The remaining three households/housing units are .18% of the remaining (2000 less the 220 low-income and less the 160 minority units) total area households/housing units.

What can be determined from this data? Although the ratio of households/housing units being displaced is considerably greater for the individual populations when compared to that population, the displaced unit's ratio within the population is far smaller than the individual populations compared to the total populations. In other words, the minority population is 1.87% of the minority population compared to .18 % (the three non low-income and non minority units) of the remaining population but it is far less than the 8% ratio of minority to total population. This is not a Disproportionately High Impact if the remainder of the minority and/or low-income population is randomly dispersed throughout the total study area population.

Even if all 10 houses in the project are minority/low-income, it is still not a large enough portion of that population to qualify as a Disproportionately High Impact on that population for this example. This is because the minority and/or low-income "population" is randomly dispersed throughout the general population. However, if there is no other minority or low-income populations in the study area, then this concentration becomes the study area population and the impact is disproportionate.

Using the raw data is generally enough to determine extent of disproportionate impact but not always. For instance, if there are two relatively equal project alternatives and one takes ten minority households and the other takes ten non-minority households then there may be cause for concern if the minority households are displaced or impacted and the alignment could have gone either way.

The above example can help determine *disproportionate* impact. To determine *adverse* impact, one must compare the health, economic and social impacts of the minority or low-income displaced households to the same impact on other displaced households in the project impact area. For instance, where do the minority and/or low-income households receive health care? Would the displacement move the populations farther from, and be a greater burden to, them than to the general population? The same question would be appropriate for schools, shopping, entertainment and job locations.

In some cases it is almost impossible to determine income levels for the displaced or impacted units. It may be worthwhile to assume that all of the units are low income and using the technique described above, determine if that would be an adverse impact. If not, then there is no need to continue to determine the individual unit income levels. This also holds true for the minority determination.

Once you have determined if there are both the disproportionate and adverse impacts, then determine if the adverse impacts are disproportionate. For instance there can be disproportionate impacts that are not necessarily adverse. This could result where a mobile court is occupied by trailers that are worthless on the open market and the householders being displaced will be moved into better quarters.

There are adverse impacts that may not be disproportionate. For instance in a community where an ethnic group is equal in number to the Caucasian population and an equal number of households are displaced, the impact may be adverse to all concerned but it is not disproportionate to the ethnic group.

The examples here have dealt with displacements. Not all EJ impacts are displacements. Noise, air quality, fragmentation of community, displacement of shopping, government, school and social facilities are some of the areas that can be disrupted enough to cause disproportionately high and adverse impacts to a population.

Once you have reached a conclusion concerning adverse and disproportionate impacts, contact the FHWA Operations Engineer for your district and discuss your conclusion. It is the responsibility of FHWA to make the final determination of adverse or disproportionate impact and the determination should be made as a joint effort.

SECTION 2060.00 – PERMITS

None.

SECTION 2070.00 – NON-ROAD PROJECT REQUIREMENTS

Rail, aviation, and non-motorized transport systems are generally subject to the same policies, procedures, and permits that apply to road projects.

SECTION 2080.00 – EXHIBITS

Exhibit 2000-1 ITD Environmental Justice.

Report Format

A- **Cover page** – containing:

- i-Project Number
- ii Key Number
- iii Project Name
- iv Location (City, County)
- v Date
- vi Signature of Author

B-**Table of Contents**

C- **Preamble** – Place the following statement as a preamble to the narrative:

“Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed by the President on February 11, 1994, directs Federal agencies to identify and address disproportionately high and adverse human health and environmental effects, including the interrelated and social and economic effects of their programs, policies and activities on minority and low-income populations in the United States

D-**Definitions** – Low income, low income population, minority, minority population, adverse effect, disproportionately high and adverse effects. (**See *Exhibit 2000-3***)

E-**Vicinity Map** -This map is preferably in color and should be a first or second generation copy to ensure legibility. Use a scale adequate to show the project area in detail sufficient to understand local impact areas. Aerial photos are especially useful on larger projects or when a

definite impact is expected. Maps included as part of the environmental document submitted to FHWA must be first-generation color copies.

F-Description of Project Alternatives– Describe not only the actual construction but also the physical changes each alternative will make in the transportation system and describe briefly how the construction will be phased and conducted.

G-Public Policy Statement -This is a statement, taken from the Purpose and Need Statement for the each alternative, explaining why each alternative is needed, what deficiencies will be resolved and the justification for the selected alternative. This statement can carry great weight in resolving perceived EJ challenges. It explains the “greater good” to the community and to the impacted communities or individuals.

H- Determine if there are minority or low-income populations or households that will be impacted by each alternative. [See 2000.05 (7).

(I) If there are none, use the following closing statement and conclude the survey.
“No minority or low-income populations have been identified that would be adversely impacted by the proposed project as determined above. Therefore, this project will not have disproportionately high or adverse effects on minority or low income populations per Executive Order 12898. “

(II) If there are populations, continue:

I-Consider the following issues and expand on any that cause negative impact to the community. The entire checklist does not have to be inserted into the body of the report but those impacts that are indicated by the checklist must be explained in the report and mitigated where.

j-Resolution/Mitigation - Explain in detail the plan to avoid, minimize or mitigate the community impact. For each of the impacts listed in the Impact to the Community Section be certain that mitigation is included. Are there mitigation alternatives? List all possibilities and explain why the discarded resolutions are not feasible or reasonable.

k- Appendices – supporting documents and information, record of public meetings and testimony, official correspondence, etc.

Guidance

When addressing the impact issues, keep the following in mind:

After the transportation alternatives and a preliminary community profile have been defined, the analyst identifies and analyzes the impacts of the proposed transportation action on community life. Analysts examine the anticipated future with the transportation action in comparison to the anticipated future without the transportation action (a no-build alternative or baseline). When analyzing impacts, it is important to keep in mind the following guidelines:

- Both positive and negative impacts.
- Both temporary and long-term impacts, as well as secondary and cumulative effects.
- Community goals.
- The public’s perception of impacts. If the public identifies issues, then review and research these particular issues.
- The magnitude and context of an issue or controversy, as it determines the level of specificity for the analysis.

- Whether the impacts are disproportionate to low-income or minority populations.

Include a public policy statement that summarizes why the project is in the best interest of the general public and how the benefits of the project outweigh adverse impacts that may arise from the project itself. If these benefits are not readily identifiable, the project itself may need rethinking.

Finish the EJ survey with the appropriate following statement:

“No minority or low-income populations have been identified that would be adversely impacted by the proposed project as determined above. Therefore, this project will not have disproportionately high and adverse effects on minority or low-income populations per Executive Order 12898”.

or,

“Based on the above discussion, this project will not cause disproportionately high and adverse effects on any minority or low-income populations as per Executive Order 12898 regarding environmental justice.”

or,

“Based on the above analysis, the (XYZ) alternative(s) will cause disproportionately high and adverse impacts on minority or low-income populations. All further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effect on the low-income and minority population have been considered and are not practicable or would result in other impacts of extraordinary magnitude. Therefore, there are no feasible and prudent alternatives to avoid the disproportionately high and adverse impacts on the low income or minority populations”.



Exhibit 2000-2

U.S. Department of Transportation
Federal Highway Administration

**FHWA ACTIONS TO ADDRESS ENVIRONMENTAL JUSTICE
IN MINORITY POPULATIONS AND LOW-INCOME POPULATIONS**

6640.23

December 2, 1998

Par.

1. Purpose And Authority
2. Definitions
3. Policy
4. Integrating Environmental Justice Principles With Existing Operations
5. Preventing Disproportionately High and Adverse Effects
6. Actions to Address Disproportionately High and Adverse Effects **PURPOSE AND AUTHORITY.**

14- This Order establishes policies and procedures for the Federal Highway Administration (FHWA) to use in complying with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), dated February 11, 1994.

7.
 - a. EO 12898 requires Federal agencies to achieve environmental justice by identifying and addressing disproportionately high and adverse human health and environmental effects, including the interrelated social and economic effects of their programs, policies, and activities on minority populations and low-income populations in the United States. These requirements are to be carried out to the greatest extent practicable, consistent with applicable statutes and the National Performance Review. Compliance with this FHWA Order is a key element in the environmental justice strategy adopted by FHWA to implement EO 12898, and can be achieved within the framework of existing laws, regulations, and guidance.
 - b. Consistent with paragraph 6-609 of Executive Order 12898 and the Department of Transportation Order on Environmental Justice (DOT Order 5610.2) dated April 15, 1997, this Order is limited to improving the internal management of the Agency and is not intended to, nor does it, create any rights, benefits, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party

against the Agency, its officers, or any person. Nor should this Order be construed to create any right to judicial review involving the compliance or noncompliance with this Order by the Agency, its operating administrations, its officers, or any other person.

2. **DEFINITIONS**

The following terms, where used in this Order, shall have the following meanings¹:

- a. **FHWA** means the Federal Highway Administration as a whole and one or more of its individual components;
- b. **Low-Income** means a household income at or below the Department of Health and Human Services poverty guidelines;
- c. **Minority** means a person who is:
 - (1) Black (having origins in any of the black racial groups of Africa);
 - (2) Hispanic (of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
 - (3) Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);
or
 - (4) American Indian and Alaskan Native (having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition).
- d. **Low-Income Population** means any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who would be similarly affected by a proposed FHWA program, policy, or activity.
- e. **Minority Population** means any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.
- f. **Adverse Effects** means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community;

and the denial of, reduction in, or significant delay in the receipt of, benefits of FHWA programs, policies, or activities.

- g. **Disproportionately High and Adverse Effect on Minority and Low-Income Populations** means an adverse effect that:

(1) is predominately borne by a minority population and/or a low-income population; or

(2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non minority population and/or non low- income population.

- h. **Programs, Policies, and/or Activities** means all projects, programs, policies, and activities that affect human health or the environment, and that are undertaken, funded, or approved by FHWA. These include, but are not limited to, permits, licenses, and financial assistance provided by FHWA. Interrelated projects within a system may be considered to be a single project, program, policy, or activity for purposes of this Order.
- i. **Regulations and Guidance** means regulations, programs, policies, guidance, and procedures promulgated, issued, or approved by FHWA.

3. **POLICY**

- a. It is FHWA's longstanding policy to actively ensure nondiscrimination in Federally funded activities. Furthermore, it is FHWA's continuing policy to identify and prevent discriminatory effects by actively administering its programs, policies, and activities to ensure that social impacts to communities and people are recognized early and continually throughout the transportation decision making process--from early planning through implementation.

Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.

- b. EO 12898, DOT Order 5610.2, and this Order are primarily a reaffirmation of the principles of Title VI of the Civil Rights Act of 1964 (Title VI) and related statutes, the National Environmental Policy Act (NEPA), 23 U.S.C. 109(h) and other Federal environmental laws, emphasizing the incorporation of those provisions with the environmental and transportation decision making processes.

Under Title VI, each Federal agency is required to ensure that no person on the grounds of race, color, or national origin, is excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. This statute applies to every program area in FHWA. Under EO 12898, each Federal agency must identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.

- c. FHWA will implement the principles of the DOT Order 5610.2 and EO 12898 by incorporating Environmental Justice principles in all FHWA programs, policies, and activities within the framework of existing laws, regulations, and guidance.
- d. In complying with this Order, FHWA will rely upon existing authorities to collect necessary data and conduct research associated with environmental justice concerns, including 49 CFR 21.9(b) and 23 CFR 200.9 (b)(4).

4. INTEGRATING ENVIRONMENTAL JUSTICE PRINCIPLES WITH EXISTING OPERATIONS

- a. The principles outlined in this Order are required to be integrated in existing operations.
- b. Future rulemaking activities undertaken, and the development of any future guidance or procedures for FHWA programs, policies, or activities that affect human health or the environment, shall explicitly address compliance with EO 12898 and this Order.
- c. The formulation of future FHWA policy statements and proposals for legislation that may affect human health or the environment will include consideration of the provisions of EO 12898 and this Order.

5. PREVENTING DISPROPORTIONATELY HIGH AND ADVERSE EFFECTS

- a. Under Title VI, FHWA managers and staff must administer their programs in a manner to ensure that no person is excluded from participating in, denied the benefits of, or subjected to discrimination under any program or activity of FHWA because of race, color, or national origin. Under EO 12898, FHWA managers and staff must administer their programs to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of FHWA programs, policies, and activities on minority populations and low-income populations.
- b. FHWA currently administers policies, programs, and activities that are subject to the requirements of NEPA, Title VI, the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act), Title 23 of the United States Code (<http://www.fhwa.dot.gov/realestate/ua/index.htm>) and other statutes that involve human health or environmental matters, or interrelated social and economic impacts. These requirements will be administered to identify the risk of discrimination, early in the development of FHWA's programs, policies, and activities so that positive corrective action can be taken. In implementing these requirements, the following information should be obtained where relevant, appropriate, and practical:
 - (1) population served and/or affected by race, or national origin, and income level;
 - (2) proposed steps to guard against disproportionately high and adverse effects on persons on the basis of race, or national origin; and,
 - (3) present and proposed membership by race, or national origin, in any planning or advisory body that is part of the program.

- c. FHWA will administer its governing statutes so as to identify and avoid discrimination and disproportionately high and adverse effects on minority populations and low-income populations by:

- (1) identifying and evaluating environmental, public health, and interrelated social and economic effects of FHWA programs, policies, and activities; and

- (2) proposing measures to avoid, minimize, and/or mitigate disproportionately high and adverse environmental and public health effects and interrelated social and economic effects, and providing offsetting benefits and opportunities to enhance communities, neighborhoods, and individuals affected by FHWA programs, policies, and activities, where permitted by law and consistent with EO 12898; and

- (3) considering alternatives to proposed programs, policies, and activities, where such alternatives would result in avoiding and/or minimizing disproportionately high and adverse human health or environmental impacts, consistent with EO 12898; and

- (4) providing public involvement opportunities and considering the results thereof, including providing meaningful access to public information concerning the human health or environmental impacts and soliciting input from affected minority and low-income populations in considering alternatives during the planning and development of alternatives and decisions.

- d. **ACTIONS TO ADDRESS DISPROPORTIONATELY HIGH AND ADVERSE EFFECTS**

- a. Following the guidance set forth in this Order, FHWA managers and staff shall ensure that FHWA programs, policies, and activities for which they are responsible do not have a disproportionately high and adverse effect on minority or low-income populations.

- b. When determining whether a particular program, policy, or activity will have disproportionately high and adverse effects on minority and low-income populations, FHWA managers and staff should take into account mitigation and enhancements measures and potential offsetting benefits to the affected minority or low-income populations. Other factors that may be taken into account include design, comparative impacts, and the relevant number of similar existing system elements in non minority and non low-income areas.

- c. FHWA managers and staff will ensure that the programs, policies, and activities that will have disproportionately high and adverse effects on minority populations or low-income populations will only be carried out if further mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is

"practicable," the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.

- d. FHWA managers and staff will also ensure that any of their respective programs, policies or activities that have the potential for disproportionately high and adverse effects on populations protected by Title VI ("protected populations") will only be carried out if:

- (1) a substantial need for the program, policy or activity exists, based on the overall public interest; and

- (2) alternatives that would have less adverse effects on protected populations have either:

- (a) adverse social, economic, environmental, or human health impacts that are more severe; or

- (b) would involve increased costs of an extraordinary magnitude.

- e. Any relevant finding identified during the implementation of this Order must be included in the planning or NEPA documentation that is prepared for the appropriate program, policy, or activity.
- f. Environmental and civil rights statutes provide opportunities to address the environmental effects on minority populations and low-income populations. Under Title VI, each Federal agency is required to ensure that no person on grounds of race, color, or national origin is excluded from participation in, denied the benefits of, or in any other way subjected to discrimination under any program or activity receiving Federal assistance. Therefore, any member of a protected class under Title VI may file a complaint with the FHWA Office of Civil Rights, Attention HCR-20, alleging that he or she was subjected to disproportionately high and adverse health or environmental effects. FHWA will then process the allegation in a manner consistent with the attached operations flowchart.

Original signed by: Kenneth R. Wykle
Federal Highway Administrator

¹These definitions are intended to be consistent with the draft definitions for EO 12898 that have been issued by the Council on Environmental Quality (CEQ) and the Environmental Protection Agency (EPA). To the extent that these definitions vary from the CEQ and EPA draft definitions, they reflect further refinements deemed necessary to tailor the definitions to fit within the context of the FHWA program.

ADDRESSING ENVIRONMENTAL JUSTICE
in Environmental Assessments/Environmental Impact Statements

FEDERAL HIGHWAY ADMINISTRATION
Western Resource Center - San Francisco

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, was signed by the President on February 11, 1994. The Executive Order (EO) and accompanying memorandum focuses Federal attention on the environmental and human health conditions in minority and low-income communities, enhances the provision of nondiscrimination in Federal programs affecting human health and the environment, and promotes meaningful opportunities to access of public information and participation in matters relating to minority and low-income communities and their environment.

The EO requires each Federal agency to take the appropriate steps to identify and avoid any disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on minority and low-income populations. The Department of Transportation (DOT) and the FHWA have initiated steps to ensure compliance with the EO:

- DOT's Final EJ Strategy was published in the June 29, 1995 Federal Register, Vol. 60 No. 125.
- DOT's EJ Order was published in the April 15, 1997 Federal Register, Vol. 62, No. 72
- FHWA's EJ Order 6640.23, was signed by the Administrator on December 2, 1998.

This guidance is intended as an interim measure for addressing EJ in the NEPA document until formal agency guidance is issued. Title VI of the Civil Rights Act of 1964, as amended, requires that no person, because of race, color, and national origin be excluded from participation in, denied the benefits of, or be subjected to discrimination by and Federal-aid activity. The FHWA Technical Advisory 6640.8A (TA) provides guidance for documenting the potential social, economic, and environmental impacts considered in the selection and implementation of highway projects. EO 12898 is a renewed focus on the Title VI law with respect to minority population and adds low income populations as an emphasis area when addressing socio-economic concerns.

The following supplements the TA for compliance with the principles of EJ. Explicit consideration is required and normally will be found under the social and economic discussion sections.

IDENTIFYING EXISTING POPULATIONS

Minority: Using localized census tract data and other information identify any readily identifiable groups or clusters of minority persons in the project study area.

Low-income: DOT and FHWA use the Department of Health and Human Services (DHHS) poverty guidelines. In 2000, this is 17,050 for a family of four. This is updated annually,
http://www.travel.state.gov/visa/immigrants/info/info_1327.html

1) In the affected environment section, under the social and economic chapter, provide demographic information on the general population in the project study area. Social characteristics should include identification of the ethnicity, age, mobility and income level of the overall population. The EO needs to be defined and the following words may be used:

“Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed by the President on February 11, 1994, directs Federal agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of Federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.”

2) When there are no groups of minority or low-income populations or communities in the project study area, or it has been determined that there will be no impact on these people by the proposed project, the following statement may be used:

“No minority or low-income populations have been identified that would be adversely impacted by the proposed project as determined above. Therefore, this project is not subject to the provisions of E.O. 12898.”

3) When there are groups of minority or low-income populations in the project area which may be beneficially or adversely impacted, proceed to the next section.

IDENTIFY COORDINATION, ACCESS TO INFORMATION & PARTICIPATION

Document in the Comments and Coordination Section, the degree to which the affected groups of minority and/or low-income populations have been involved in

the decision making process related to the alternative selection, impact analysis and mitigation. Discuss all proactive efforts to ensure meaningful opportunities for public participation including any specific activities to increase outreach for low-income and minority participation. Indicate the opinions of the communities related to these decisions and what steps are being taken to resolve any controversy that exists.

IDENTIFYING ADVERSE EFFECTS

1) EJ considerations will be summarized under the social-economic Consequences section. References to other topic sections in the NEPA document can be used, as appropriate. The beneficial and adverse impacts on the overall population and on minority and low-income populations or communities need to be discussed under the applicable topics such as: air, noise, water pollution, soil contamination, destruction or disruption of man-made or natural resources, aesthetic values, community cohesion or a community's economic vitality, adverse employment effects, displacement of persons, businesses, farms, increased traffic congestion, isolation, relocation impacts, changes to travel patterns, accessibility, safety issues, indirect impacts, and construction/temporary impacts, should be included as pertinent to creating a disproportionately high and adverse health or environmental impact on minority and/or low-income populations.

2) Compare the project impacts on the minority and/or low-income populations with respect to the impacts on the overall population within the project area. Fair distribution of the impacts is the goal but rather avoidance first.

3) Where there are adverse impacts on any people, discuss what measures are being considered for mitigation using avoidance, first and then minimization and using opportunities to enhance communities and neighborhoods. Any activity which demonstrates sensitivity to a special need should be highlighted.

4) If there are groups of minority or low-income populations that will be impacted by the project, the NEPA document should demonstrate whether the impacts are still adverse even after consideration of any mitigation.

5) If the impacts remain adverse after mitigation, a determination of whether they are disproportionately high and adverse after considering offsetting benefits is needed.

If there are no disproportionately high and adverse effects, the following statement may be used or proceed to the next step:

“The XYZ alternative(s) will not cause disproportionately high and adverse effects on any minority or low-income populations.”

IDENTIFYING DISPROPORTIONATELY HIGH & ADVERSE EFFECTS

A disproportionately high and adverse effect means the impact is appreciably more severe or greater in magnitude on minority or low-income populations than the adverse effect suffered by the non-minority or high income populations after taking offsetting benefits into account.

If this determination is made, a discussion is needed to demonstrate how other mitigation measures or alternatives that would avoid or reduce the disproportionately high and adverse effects on the minority or low-income groups are not practicable. Or, that the cost, social, economic, human health and environmental impacts of the other alternatives are more severe and reach extraordinary magnitudes.

There is no new right of legal action or redress under this Executive Order 12898

EXHIBIT 2000-4 Example of Environmental Justice Report.

This report was included in the text of an Environmental Evaluation so does not contain the maps, project description and background documentation required in the format in [Exhibit 2000-1](#). That information was included elsewhere in that document. This is a fairly complex project involving historic sites, widening on one side only in some areas, crossing an arterial, impacting a substantial business and connecting to a second project that required a major new bridge crossing the Snake River.

3.XX.1 BACKGROUND

The concept of environmental justice is defined in Presidential Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, issued on February 11, 1994 (EO, 1994). In the Executive Order, federal agencies are directed to identify and address “disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.”

For NEPA compliance, the Executive Order requires federal agencies to recognize that impacts upon minority populations, low-income populations, or Indian tribes may be different from impacts on the general population due to a community’s distinct culture. All groups within an affected community, particularly minority and low-income populations, must be provided with a meaningful opportunity to participate in the development of alternatives and comment on potential impacts and mitigation measures. A NEPA Environmental Assessment (EA) must document public input of all community groups and the potential alternative must not disproportionately affect identified minority or low-income populations.

3.XX.2 DEFINITIONS

Key terms related to environmental justice compliance under NEPA are defined as follows:

Low-Income means a household income at or below the Department of Health and Human Services poverty guidelines (HHS, 2000);

Minority means a person who is:

- (1) African American (having origins in any of the black racial groups of Africa);
- (2) Hispanic (of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- (3) Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands); or
- (4) American Indian and Alaskan Native (having origins in any of the original people of North America and who maintain cultural identification through tribal affiliation or community recognition).

Low-Income Population means any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.

Minority Population means any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FHWA program, policy, or activity.

Adverse Effects means the totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to: bodily impairment, infirmity, illness or death; air, noise, and water pollution and soil contamination; destruction or disruption of man-made or natural resources; destruction or diminution of aesthetic values; destruction or disruption of community cohesion or a community's economic vitality; destruction or disruption of the availability of public and private facilities and services; vibration; adverse employment effects; displacement of persons, businesses, farms, or nonprofit organizations; increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and the denial of, reduction in, or significant delay in the receipt of benefits of FHWA programs, policies, or activities.

Disproportionately High and Adverse Effect on Minority and Low-Income Populations means an adverse effect that:

- (1) is predominately borne by a minority population and/or a low-income population; or
- (2) will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non minority population and/or non low-income population.

3.XX.3 *DEMOGRAPHICS & MINORITY / LOW-INCOME POPULATIONS*

3.xx.3.1 *Census Data*

The most accurate comparison of various sub-populations affected by the proposed project, as differentiated by ethnicity, required the use of 1990 Census data. This was due to 1) the unavailability of 2000 Census data (anticipated to be released mid-2002), and 2) the 2000 socioeconomic estimates (BMPO, 2000), derived from extrapolation of the 1990 Census data, did not differentiate between ethnicities. The percentages of minority populations residing in various areas within and surrounding the project corridor are presented in Table 3-1.

Table X-1. Minority Populations Within and Surrounding Project Corridor ^a

Area / Census Tract	Total Population	<i>White</i>	<i>Black</i>	Native American	Asian	Other ^c	Total Minority Population %
Bonneville County % of Total	72,207 100%	69,073 95.6%	348 0.5%	436 0.6%	927 1.3%	1,423 2%	3,134 4%
City of Idaho Falls % of Total	43,929 100%	41,898 95%	233 0.05%	226 0.05%	765 2%	807 2%	2031 5%
City of Ammon % of Total	5002 100%	4839 96.7%	37 0.7%	22 0.4%	12 0.2%	92 2%	163 3.3%
Project Corridor ^b % of Total	5,319 100%	5,161 97%	0 0%	0 0%	103 2%	55 1%	158 3%
#1402(A,B,C) % of Total	1602 100%	1558 97%	0 0%	0 0%	0 0%	44 3%	44 3%
<p>a. Source: 1990 Census of Population and Housing (BMPO, 1994).</p> <p>b. Project Corridor is defined as the area along Sunnyside Road between the Snake River and Holmes Ave. It is bounded by the area immediately south of Sunnyside Road to W 65th South, and the area immediately north of Sunnyside Road to 17th Street. It includes census blocks #1003, #1004, #1005, #1006 and #1402.</p> <p>c. 'Other' includes Hispanic population.</p>							

Comparison of various sub-populations affected by the proposed project, as differentiated by income level, was determined using 2000 socio-economic estimates, as derived from extrapolation of the 1990 Census data by the Bonneville Metropolitan Planning Organization (BMPO, 2000). Although census blocks may be sub-divided, the census data is compiled and is differentiated only down to the level of a census block, e.g. #1006, #1402, etc. A map denoting census block boundaries within the project corridor is presented as Figure 3-1. Using this data, the average incomes of sub-populations within and surrounding the project corridor have been calculated (see Table 3-2).

Table 3-2. Household Incomes for Populations Within and Surrounding Project Corridor ^a

Area / Census Block #	Average Income of Population	% Low Income
Bonneville County	\$50,220	10.6% ^b
City of Idaho Falls	\$50,092	--- ^e
City of Ammon	\$50,350	--- ^e
Project Corridor ^c	\$59,741	--- ^e
Census Block #1402 ^d	\$61,056	--- ^e
<p>a. Source: "Bonneville Metropolitan Area 2000 Socio-Economic Estimates" (BMPO, 2000)</p> <p>b. Center for Vital Statistics (CVS, 2000).</p> <p>c. Project Corridor is defined as the area along Sunnyside Road between the Snake River and Holmes Ave. It is bounded by the area immediately south of Sunnyside Road to W 65th South, and the area immediately north of Sunnyside Road to 17th Street. It includes census blocks #1003, #1004, #1005, #1006 and #1402.</p> <p>d. Data for Census Block #1402 is sum total of sub-blocks #1402A, #1402B, & #1402C.</p> <p>e. Not able to be determined based on available data, as poverty level / low income determination is made on a case-by-case basis, using the number of people in a household compared to the total household income. US Census does not provide data on a residence-by-residence basis.</p>		

Although U.S. Census data provides a general overview of the attributes of a large subject population, the data associated with subpopulations within the boundaries of these same areas may be diluted to such a point, that the data is no longer representative of the subpopulation. To avoid such occurrences, Executive Order 12898 requires additional analysis of any subpopulations of concern, e.g. subpopulations that may not be accurately represented by the use of data at the U.S. Census scale, within an area potentially affected by the project. A cursory survey of the project corridor resulted in the identification of two subpopulations of concern (see Figure 3-2)

The 2 areas of concern were identified as Sunnyside Acres Mobile Home Park (located within the (located to the west of the proposed project and designated as census block #1006D).

As US Census data was available for census block #1402, but not for its sub-blocks #1402A, #1402B, or #1402C, (likewise as data was available for census block #1006, but not for its sub-blocks #1006A, #1006B, #1006C, or #1006D), collection of additional income and ethnicity data that would be representative of the sub-populations of concern, #1402A and #1006D, was deemed necessary.

3.xx.3.2 Survey Method and Results

To ensure any minority and/or low-income populations affected by the proposed project were adequately accounted for, door-to-door surveys within the communities of concern were conducted. The survey events did not entail obtaining information from each and every resident located within the two sub-populations of concern, rather, efforts were made to obtain statistically-valid counts that could be used to determine the extent of minority and/or low-income populations within the areas of concern. The number of residents to be surveyed and the particular sites that were to be included in each survey event were derived using statistical methods and random number generation (see Appendix G).

Data representative of the sub-populations of concern has been compiled. For the community located within the project boundary, Sunnyside Acres Mobile Home Park, the data is presented below in Tables 3-3 and 3-4. For the population of concern that is located adjacent to- but beyond the project boundary, those residing in the Valley Trailer Court, data are presented in Section 3.22, *Cumulative Impacts*.

Table 3-3. Ethnicity Survey Results of Residents within Sunnyside Acres Mobile Home Park^a

Study Area	Survey Population	White	Black	Native American	Asian	Other ^b	% Minority ^c
All Residences (209 homes)^d	23 homes	19	0	2	1	1	17%
Only Residences Proposed for Relocation (max. of 7 homes)^e	5 homes	4	0	0	0	1	20%

a. Source: Resident Survey conducted by SERG, Inc., January 2001.
 b. 'Other' includes Hispanic population.
 c. While the resident survey was not intended to identify the ethnicity of every individual in the area of concern, the percentage of minority population was able to be computed on a statistical basis.
 d. All residences located within Sunnyside Acres (less those 7 proposed for relocation and accounted for in a separate survey) were deemed a subpopulation of concern. Survey results from 23 out of the 209 homes are representative of a statistically-valid sample population.
 e. The 7 residences proposed for relocation within Sunnyside Acres were deemed a subpopulation of concern. Survey results from 5 out of the 7 homes are representative of a statistically-valid sample population.

Table 3-4. Income Survey Results of Residents within Sunnyside Acres Mobile Home Park^a

Study Area	Survey Population	% Low Income ^b
All Residences (209 homes)^c	23 homes	22%
Only Residences Proposed for Relocation (max. of 7 homes)^d	5 homes	40%

a. Source: Resident Survey conducted by SERG, Inc., January 2001.
 b. While the resident survey was not intended to identify the income level of every household in the area of concern, the percentage was computed on a statistical basis.
 c. All residences located within Sunnyside Acres (less those 7 proposed for relocation and accounted for in a separate survey) were deemed a subpopulation of concern. Survey results from 23 out of the 209 homes are representative of a statistically-valid sampling population.
 d. The 7 residences proposed for relocation within Sunnyside Acres were deemed a subpopulation of concern. Survey results from 5 out of the 7 homes are representative of a statistically-valid sampling population.

3.xx.4 Public Involvement

In an attempt to ensure that the local public and residents/businesses along the project corridor were kept fully informed of impacts associated with various transportation improvement projects proposed for construction within the Sunnyside Corridor, a variety of community outreach mechanisms were employed.

Project information was disseminated to all those owning property and/or residing on property situated along the Sunnyside Corridor (from the Snake River eastward to Ammon Road), via direct written correspondence in the form of informational newsletters and mailers. The City of Idaho Falls presented project details and notified the local public of scheduled information exchange meetings via newspaper and television advertisements prior to conducting public information exchange meetings on March 22, 2000 at Taylorview Jr. High, April 15, 2000 at the Grand Teton Mall, and November 2, 2000 at Taylorview Jr. High.

These gatherings were staffed with personnel from the City of Idaho Falls Public Works Department, along with the city's design engineer, right-of-way agent, and environmental consultant, as well as the Idaho Transportation Department, and its environmental consultant. The objective of engaging in these meetings was to promote an open dialog between project planners and the public, concerning issues associated with this project, as well as cumulative impacts from additional transportation projects proposed for construction within the Sunnyside Corridor [specifically, the Sunnyside Interchange Project; the Sunnyside Corridor Improvement Project: Yellowstone Highway (US-20) to Holmes Avenue; the Sunnyside Corridor Improvement Project: Holmes Avenue to Ammon Road; the Idaho Canal Bridge Project; and the Sunnyside Road and Hitt Road Intersection Improvement Project]. The City of Idaho Falls personnel scheduled follow-up meetings with those members of the public that had specific needs and/or issues of concern, as necessary.

Additionally, the City solicited input from the public via a toll-free telephone hotline and an internet website, established specifically for the purpose of gathering public comments associated with the proposed projects. Additional details concerning the community outreach mechanisms used on this project are presented in Section 5.0, *Public Involvement*.

3.21.5 ENVIRONMENTAL JUSTICE IMPACT ASSESSMENT

With regard to the environmental justice impact assessment, the elements of concern associated with the proposed project have been determined to include community safety, right-of-way acquisition, relocation, pedestrian and bicycle considerations, and noise (City of Idaho Falls, 2002). Each has been assessed as to its level of impact on the community of concern (Sunnyside Acres Mobile Home Park). The results are summarized in Table 3-5.

Table 3-5. Sunnyside Acres Mobile Home Park Environmental Impact Summary

Environmental Justice Issues	Roadway Alignment Alternatives				
	Alt. 1 No Action	Alt. 2 North Align. –Storm Park Northern Side	Alt. 3 South Align. –Storm Park Northern Side	Alt. 4 North Align. – Storm Park Southern Side	Alt. 5 South Align. – Storm Park Southern Side
Community Safety	Adverse Impact	Beneficial Impact	Beneficial Impact	Beneficial Impact	Beneficial Impact
Right-of-Way Acquisition	No Impact	Adverse Impact of 0.588 acres	Adverse Impact of 0.939 acres	Adverse Impact of 0.588 acres	Adverse Impact of 0.939 acres
Relocation	No Impact	None necessary	7 residences	None necessary	7 residences
Pedestrian & Bicycle Path	Adverse Impact	Beneficial Impact (No bike path on southern side)	Beneficial Impact (No bike path on southern side)	Beneficial Impact (Ped. / Bike Paths on both sides)	Beneficial Impact (Ped. / Bike Paths on both sides)
Noise	Adverse Impact at 68.7 dBA in 2025	Beneficial Impact at 56.6 dBA in 2025	Beneficial Impact at 56.6 dBA in 2025	Beneficial Impact at 56.6 dBA in 2025	Beneficial Impact at 56.6 dBA in 2025

3.21.5.1 Community Safety

Implementation of Alternative 2, 3, 4, or 5 would result in a substantial improvement in the safety of those residing in Sunnyside Acres Mobile Home Park. Construction of additional travel lanes would improve the roadway's level of service, facilitating more efficient access to medical facilities and emergency response units located on the eastern end of the Sunnyside Corridor. In addition, construction of additional travel lanes, a left turning lane, and pedestrian / bicyclist pathways would promote safer egress / ingress to the residential community of concern. The level of impact upon these residents would be the same for any one of the alternatives implemented (except for Alternative 1, No Action).

3.21.5.2 Right-of-Way Acquisition

Widening the corridor via Alternative 2, 3, 4, or 5 would require right-of-way (R/W) acquisition from the community of concern. Implementation of Alternative 3 or 5 (southern alignments) would require obtaining 0.939 ac (0.380 ha) of new R/W, and implementation of Alternative 2 or 4 (northern alignments) would require 0.588 ac (0.238 ha) of new R/W.

3.xx.5.3 Resident Relocations

Maintaining the roadway as it exists today or implementing Alternative 2 or 4 (northern alignments) would not require resident relocations within the community of concern.

Implementation of Alternative 3 or 5 (southern alignments) would require the relocation of seven residences within the subpopulation of concern. However, of those residents surveyed that are currently located within the mobile home park and are proposed for relocation, 80% stated a preference for relocating their residence.

3.xx.5.4 Pedestrian / Bicyclist Access

Currently, there is no pedestrian and/or bicycle pathway on either side of the corridor available for utilization by the residents of Sunnyside Acres Mobile Home Park. Implementation of Alternative 4 or 5 (storm park on the south side) would result in a pedestrian/bicycle pathway on both sides of the corridor. Although implementation of Alternative 2 or 3 (storm park on the north side) would result in a pedestrian/bicycle pathway on the north side of the road, it would allow for a *pedestrian pathway only on the south side of the corridor*.

While the implementation of any of Alternatives 2, 3, 4, or 5 would result in improved pedestrian and/or bicyclist access for these residents, those residing in the Sunnyside Acres community would gain the most benefit from the implementation of Alternative 4 or 5. This is due to the fact that a community park, zoo, and various recreational facilities are located nearby, to the northeast of Sunnyside Acres. Providing these residents with both pedestrian & *bicyclist* access via the use of a pathway that adjoins the boundary of their community, would further enable safe and efficient access to these facilities.

3.xx.5.5 Traffic Noise

Currently the residents of the Sunnyside Acres Mobile Home Park are subjected to noise levels of 67.9 dBA, which is above the FHWA action level of 66 dBA. If Alternative 1 is implemented and no roadway upgrade is completed, the noise level projections for this community in 2025 are anticipated to reach 68.7 dBA. While implementation of Alternatives 2, 3, 4, or 5 would increase the amount of traffic on the roadway adjacent to this community, implementation of any one of these alternatives would also result in the installation of a sound barrier, resulting in an overall decrease of noise to a level of 56.6 dBA.

3.XX.6 AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES

Once the type and extent of adverse impacts that may be placed on those residing within the community of concern (Sunnyside Acres Mobile Home Park) was recognized, the roadway designers worked to develop ways in which these impacts could be avoided, minimized, or mitigated.

3.xx.6.1 Community Safety

Since the issue of community safety is one of the issues that have prompted the development of this project, elements to enhance community safety have been evaluated and integrated into the project design (e.g., addition of travel lanes, a center turning lane, and pedestrian and/or bicyclist pathways on both sides of the corridor).

3.xx.6.2 Right-of-Way Acquisition

Although the width of the roadway design has been narrowed to the administrative minimum, the implementation of any one of the Alternatives 2, 3, 4, or 5 would result in

necessary R/W acquisition from the community of concern (Sunnyside Acres Mobile Home Park). Alternatives that will minimize the amount of R/W necessary to the maximum extent possible have been presented for consideration (Alternatives 2 and 4). Any necessary R/W acquisition would be performed in accordance with the Uniform Relocation Act, as a means of ensuring property is acquired at a fair purchase price.

3.xx.6.3 Resident Relocations

Although the width of the roadway design has been narrowed to the administrative minimum, implementation of either Alternative 3 or 5 (southern roadway alignments) would result in the relocation of seven residences within the subpopulation of concern. In an effort to minimize these impacts, inquiries were made, and the availability of home sites within the Sunnyside Acres community has been confirmed. Any necessary relocation would be performed in accordance with the Uniform Relocation Act, which requires that residents required to relocate be compensated.

3.XX.7 CONCLUSIONS

“Based on the above discussion, none of the alternatives will cause disproportionately high and adverse effects on any minority or low-income populations as per E.O. 12898 regarding environmental justice.” ****

(****Note that this statement has been changed in the current “Interim Guidance” – [Exhibit 2200-3](#). Please use the statement as presented in [Exhibit 2200-3](#).)

REFERENCES

BMPO, 1994, “1990 Census of Population and Housing,” prepared for Bonneville Metropolitan Planning Organization in conjunction with Idaho State University, Center for Business Research and Services.

BMPO, 2000, “Bonneville Metropolitan Area 2000 Socio-Economic Estimates,” informal report prepared by Bonneville Metropolitan Planning Organization.

City of Idaho Falls, 2002, Email correspondence from Kent Magleby, City of Idaho Falls, to Pamela Cooksey, FHWA, et al, “Sunnyside Environmental Justice Discussion” with file attachments “Sunnyside EJ Outline.doc,” “Sunnyside EJ Tables.doc,” and “Dec 18 min (Final).doc,” January 10.

CVS, 2000, Center for Vital Statistics, “Idaho Poverty Status,” faxed correspondence between P. Harden, Center for Vital Statistics and S. Matthews, SERG, Inc., September 19.

EO, 1994, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, Executive Order 12898, February 11.

FHWA, 1998, *FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, U.S. DOT FHWA Order 6640.23, December 2.

HHS, 2000. U.S. Department of Health & Human Services, 'Poverty Guidelines'.

Exhibit 2000-5 Example of Environmental Justice Report

SIMPLE PROJECT (equal widening of existing street on both sides)

Item 7. Minorities and Low income Populations (Environmental Justice)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, signed by the President on February 11, 1994 directs Federal agencies to take the appropriate and necessary steps to identify and address disproportionately high and adverse effects of Federal projects on the health or environment of minority and low-income populations to the greatest extent and practicable by law.

The determination on whether or not an Environmental Justice issue will be created by this project is based on two factors: Is there a minority or low-income population at the project site and are any disproportionate impacts being generated?

A minority or low-income population is described in the December 2, 1998, FHWA memo called FHWA Actions to Address Environmental Justice in Minority and Low Income Populations: ..any readily identifiable group of minority or low-income persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient persons who would be similarly affected by a proposed FHWA program, policy or activity.

The term “readily identifiable” is not defined in the FHWA guidance. The first effort to identify a minority population was to physically drive through the project area. Within the project area from the beginning to the terminus, there are 27 properties not occupied by commercial operations and 87 commercial properties fronting on Government Way or Dalton Street. Of the 27 non commercial properties, 12 are vacant and two owners own two properties each.

The project is approximately one mile in length with the 15 occupied residential units disbursed randomly along the entire length and on both sides of the street. Three residential units are located adjacent to each other at Neider Avenue and Government Way and another three between Kathleen Avenue and Crown Avenue on Government Way. There were no groups of houses or commercial business activities that were readily discernable as being minority owned, occupied or controlled.

The current available census data is for 1990 since tract information for smaller cities is not yet available for the 2000 census. Census tracts 0007, 0009, 0012 and 0013 cover the project area but also cover a much broader area. Tract 0009 covers the west side of the street except for approximately one-half block on the north end but it also covers area south of the project limit. Tract 0012 covers the east side of the street except for approximately one-half-block on the south end. It also covers additional area north of the project limit.

Since the tract information covers more than the project site and is twelve years old, it is suspect for accuracy for the present date and project. The data is useful for determining if a minority population existed in any of the four tracts in 1990. In the four tracts encompassing 22.9 square miles, four ethnic groups totaled 215 persons and 86 households. The 215 persons constituted 1.73% of the total population of 12,420.

Assuming an average minority population of 1.73% in the tracts comprising the project area (0007-1.44%; 0009- 1.67%; 0012-1.86%; 0013-1.94%), and a household size of 2.45 (again, the average of the 4 tracts), then the 14 occupied units would contain 34 people and one of them would be a minority.

Although the data above is based on 1990 census information, the housing count is in current numbers and the household size is consistent with residential areas in developed areas without multifamily housing.

The data above indicates, and direct observation verifies, there are no readily definable minority populations in the project area.

A windshield survey of the project area did not reveal any areas that were set aside or designated for low income use. The Bambi RV Park and the Shady Acres RV Park may contain individual low income housing units. These Parks are designated for transient trailers and not intended for long term occupation although there may be no restriction on occupation duration.

The area contained in the four census tracts that encompass the project contains 23 square miles with a population in 1990 of 12,420 persons. At that time the number of persons in poverty was 1,761 or 14.8%. In 2002 the population has increased to 20,406. Assuming the same ratio of poverty there would now be 3,020 persons in poverty. Calculations in the minority population above indicated that the 14 occupied housing units contain 34 persons.

A population of 34 persons at 14.8% poverty level would be 5 persons or two households.

The data above indicates, and direct observation verifies, there are no readily definable low income populations in the project area.

No representatives of low-income or minority populations have come forth at any of the public involvement functions.

No city official has been able to verify any low-income or minority populations in the project impact area,

There will be four dislocations in the two RV parks. These housing units are mobile and can be relocated to other lots within the RV parks. Cost of the relocation will be mitigated under the Uniform Housing Relocation Act.

Determination: No minority or low-income populations have been identified that would be adversely impacted by the proposed project as determined above. Therefore, this project is not subject to the provisions of E.O. 12898.*

*The statement has been changed since this EJ report was accepted by FHWA. The correct statement now reads:

“No minority or low-income populations have been identified that would be adversely impacted by the proposed project as determined above. Therefore, this project will not have disproportionately high and adverse effects on minority or low-income populations per E.O. 12898.”